



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB2473

Introduced 02/17/05, by Rep. Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

625 ILCS 5/18c-1704

from Ch. 95 1/2, par. 18c-1704

Amends the Illinois Commercial Transportation Law in the Illinois Vehicle Code with regard to sanctions that may be imposed by the Illinois Commerce Commission. Provides that a railroad operating in the State may not receive any financial assistance from the State during any period in which there exists any outstanding citation or other notice of violation issued by the Commission or any other State agency to that railroad. Provides for waiver of the provision under certain conditions.

LRB094 06683 DRH 36777 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 18c-1704 as follows:

6 (625 ILCS 5/18c-1704) (from Ch. 95 1/2, par. 18c-1704)

7 Sec. 18c-1704. Sanctions. Each violation of this Chapter
8 shall subject the violator to the following sanctions, except
9 as otherwise provided elsewhere in this Chapter. Sanctions
10 provided for in this Section may be imposed by the Commission
11 only in compliance with the notice and hearing requirements of
12 Section 18c-2102 of this Chapter.

13 (1) Criminal Misdemeanor Penalties. Each violation of this
14 Chapter shall constitute a Class C misdemeanor.

15 (2) Civil Penalties. The Commission may assess, against any
16 person found by it to have violated this Chapter, a civil
17 penalty not greater than \$1,000 nor less than \$100 per
18 violation. The penalty assessed by the Commission shall reflect
19 the number and severity of violations found to have been
20 committed. Penalties assessed by the Commission shall be
21 enforced by any court having venue in enforcement cases under
22 this Chapter.

23 (3) Cease and Desist Orders. The Commission may, where a
24 person is found after hearing to have violated this Chapter,
25 Commission regulations or orders, and justice requires, order
26 the person to cease and desist from further or from any future
27 violations. A cease and desist order may be entered on the
28 Commission's own motion or by agreement between the parties.
29 Orders and agreements under this Section shall be valid and
30 enforceable for the period stated therein, not to exceed 2
31 years from the date the order or agreement is approved by the
32 Commission, unless the parties stipulate otherwise. Such

1 orders and agreements shall be enforceable in any court of this
2 State having venue and jurisdiction in enforcement actions
3 under this Chapter. Failure to comply with a Commission cease
4 and desist order shall constitute a violation of this Chapter
5 separate and apart from any underlying violations.

6 (4) Stipulated Settlements.

7 (a) General Provisions. The Commission may accept a
8 reasonable monetary settlement, suspension or revocation
9 of a license or registration, or any other reasonable terms
10 stipulated between the respondent and staff, with or
11 without a finding of violations.

12 (b) Presumption of Reasonableness. Such stipulations
13 shall be presumed reasonable. Unless the terms of a
14 stipulation exceed such parameters as the Commission may
15 establish, this presumption is rebuttable only by evidence
16 of record at hearing.

17 (c) Parameters. Parameters for settlement shall be
18 based on type of violation; severity, as measured by
19 revenues from unlawful activities; and number of
20 violations. Minimum settlement amounts may be established.

21 (d) Orders. Orders suspending proposed settlements
22 shall cite reasons for suspension which are specific to the
23 case. Orders rejecting proposed settlements shall recite
24 the grounds on which the settlements are found to be
25 unreasonable and describe the evidence which supports such
26 findings.

27 (5) Injunctive Relief. Any court with jurisdiction and
28 venue for purposes of enforcing this Chapter shall have the
29 power to enjoin any person from committing violations of this
30 Chapter. Suit for penalties shall not be a prerequisite to
31 injunctive relief. No bond shall be required when injunctive
32 relief is granted at the request of the Commission.

33 (6) Suspension or Revocation of Licenses and
34 Registrations.

35 (a) Availability of Suspension and Revocation as
36 Sanctions. Violation of this Chapter by a motor carrier of

1 property or passengers shall, in addition to other
2 sanctions provided herein, subject the violator to
3 suspension or revocation of any or all Commission licenses
4 and registrations. The Commission may impose the sanctions
5 of suspension and revocation. Where the violation is
6 failure of a motor carrier of property or passengers to
7 have in effect and file proof of continuous insurance
8 coverage in accordance with this Chapter, Commission
9 regulations and orders, the license or registration or both
10 may be suspended by telephonic or telegraphic directive,
11 confirmed by certified or registered mail or personal
12 service, pending final disposition of revocation
13 proceedings.

14 (b) Suspension Pending Adjudication. Where the
15 violation is failure of a motor carrier of property to pay
16 a franchise or franchise renewal fee, the license or
17 registration or both may be suspended by certified or
18 registered mail or personally served directive, pending
19 final disposition of revocation proceedings.

20 (c) Special Revocation Procedures.

21 (i) Notice. The Commission shall serve notice upon
22 all persons who have failed to pay a franchise tax,
23 license fee, or penalty required under the Business
24 Corporation Act of 1983, or who have failed to comply
25 with this Chapter, Commission regulations and orders,
26 regarding the filing of proof of continuous insurance
27 or bond coverage, the payment of periodic fees, the
28 filing of periodic reports, the payment of civil
29 penalties, or the filing of rates to the full extent of
30 a carrier's authority. The notice shall advise such
31 person of the apparent violations and state that,
32 unless the Commission receives a written request for
33 hearing or extension of time within 30 days from the
34 date the notice is served, the person's license or
35 registration will be revoked by operation of law
36 without further action by the Commission.

1 (ii) Extensions of Time. The Commission may grant
2 one extension of time not exceeding 60 days where the
3 extension will not endanger the public.

4 (iii) Request for Hearing. If a timely written
5 request for hearing is received, no further action
6 shall be taken until the requirements of Section
7 18c-2102 of this Chapter have been satisfied.

8 (iv) Revocation by Operation of Law. If, at the
9 expiration of the applicable time period, the person
10 has not complied with the pertinent requirements, and a
11 written request for hearing has not been received, the
12 person will be deemed to have waived hearing and the
13 license or registration shall be revoked by operation
14 of law without further action by the Commission as if
15 the Commission has served an order on the date
16 following expiration revoking the license or
17 registration.

18 (6.1) Denial of financial assistance.

19 (a) Sanction. A railroad operating in the State, and
20 any publicly funded project or improvement to that
21 railroad, is ineligible for and may not receive any grant,
22 loan, or any other financial assistance from the State
23 during any period of time in which there exists any
24 outstanding citation or other notice of violation issued by
25 the Illinois Commerce Commission or any State agency to
26 that railroad.

27 (b) Waiver. The Illinois Commerce Commission or other
28 citing State agency, at its discretion, may waive paragraph
29 (a) of this subsection (6.1) if the railroad proves that
30 (i) a verifiable good-faith effort is being made towards
31 immediate compliance all outstanding citations or notices
32 of violation and (ii) rail safety or the public good will
33 benefit from the grant, loan, or other financial assistance
34 from the State.

35 (7) Probation. The Commission may probate the imposition of
36 any of the sanctions set forth in this Section.

1 (Source: P.A. 88-415.)